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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): M-15392 US

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on April 28, 2006
Signature /Mark 43,779/ for
Typed or printed name Edward C. Kwok

Application Number	Filed
10/733,927	12/10/2003

First Named Inventor: Moo Ryong Jeong

Art Unit	Examiner
2617	Iqbal, Khawar

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 33,938
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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(408) 392-9250
Telephone number
April 28, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/733,927	Filing Date:	December 10, 2003
Confirmation No.:	8607		
First Named Inventor:	Moo Ryong Jeong		
Assignee:	NTT DoCoMo Inc.		
Examiner:	Iqbal, Khawar	Art Unit:	2686
Attorney Docket No.:	M-15392 US		

San Jose, California
April 28, 2006

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS FOR REQUESTING A PRE-APPEAL BRIEF REVIEW

Dear Sir:

These reasons support the Pre-Appeal Brief Request for Review filed in response to the Advisory Action mailed on April 6, 2006, maintaining the Examiner's rejection of Claims 1-26. Claims 1-39 were previously presented. Claims 27-39 are withdrawn pursuant to the Examiner's previous restriction requirement.

The Examiner rejected Claims 1-26 under 35 U.S.C. § 102(e) in the Final Office Action of December 29, 2005 as being unpatentable over U.S. Patent Application Publication 2005/147062 ("Khouaja"). In response to the Examiner's rejection, in Applicants' submission filed on Feburary 10, 2006, Applicants pointed out that independent Claims 1, 8, 14, 17, and 22, and therefore their respective dependent Claims 2-7, 9-13, 15-16, 18-21 and 23-26 also, each recite either the term "regulatory domain" or the term "domain-independent channel":

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1. A method of enabling channel scanning in a wireless station, said method comprising:

receiving from an access point data related to a possibility of a regulatory domain change; and

selecting a channel scanning method based upon said data.

* * *

8. A method of enabling channel scanning in a wireless station, said method comprising:

establishing communication between said wireless station and an access point;

receiving information in a lifetime field related to a period of time during which regulatory domain information could be used after the communication between said wireless station and said access point has been lost; and

determining whether an elapsed period of time after the communication between said wireless station and said access point has been lost is greater than the period of time in said lifetime field.

* * *

14. A method of enabling channel scanning in a wireless station, said method comprising:

determining if a channel of a plurality of available channels is a domain-independent channel; and

actively scanning the domain-independent channel.

17. A wireless station adapted to scan for channels in a wireless communication network, said wireless station comprising:

a receiver for receiving a data block, wherein said data block comprises a regulatory domain change pre-alert field;

a controller coupled to said receiver, said controller selecting a channel scanning method based upon data in said regulatory domain change pre-alert field; and

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a transmitter coupled to said controller.

* * *

22. (Previously presented) A wireless station adapted to scan for channels in a wireless communication network, said wireless station comprising:

a receiver for receiving a data block, wherein said data block comprises a lifetime field related to the extent of a regulatory domain;

a controller coupled to said receiver, said controller selecting a channel scanning method based upon data in said lifetime field; and

a transmitter coupled to said controller.

(emphasis added)

Applicants' pointed out that these terms are understood by one of ordinary skill in the art to have specific meanings. For example, Applicants' Specification explains that the terms "regulatory domain" and "domain-independent channel" at paragraphs 3 and 16 (paragraph referenced as originally filed):

> Regulatory domains, such as individual nations, independently determine the frequency band and the maximum transmission power allowed for wireless communication systems. The conditions established by each regulatory domain may vary significantly even for the same wireless communication system. For example, while the 4.9-5.0 gigahertz (GHz) band is allowed for IEEE802.11a wireless local area network (WLAN) in Japan, the 4.94-4.99 GHz band is reserved for public safety band in the United States, and thus cannot be used for IEEE802.11a. Similarly, the 5.470-5.725 GHz band, which is planned to be used for IEEE802.11a WLAN in Europe, overlaps with a military band in the United States.
>
> * * *
>
> Further, IEEE 802.11d does not consider domain-independent channels. Some channels of a WLAN may be common to several neighboring domains or even for all participating domains. Therefore, there is no danger of violating regulations in transmitting a probe request frame on this kind of domain-independent channel. Accordingly, the domain

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> independent channels can be actively scanned without waiting for domain information. IEEE 802.11d, however, does not consider domain independent channels, and passively scans domain-independent channels.
>
> (emphasis added)

That is, a "regulatory domain" includes constraints in communication imposed by a sovereign, and a "domain-independent channel" exists in an area free of such constraints. Applicants then pointed out to the Examiner that the Examiner confused these terms in Applicants' claims with Khouaja's "mobility domains," which are defined in Khouaja's paragraph 77:

> The mobility manager GM1, the interface devices DI1 and DI2 and the access points PA1i and PA2j (for i=1 to N and j=1 to P) form a first mobility domain DM1 in which a mobile transmitter/receiver ERM is capable of moving. A telecommunication system SYST according to the invention may include, as is the case here, a first and a second mobility domain [D]M1 and [D]M2, respectively, capable of communicating with one another via the communication network NWG, each of the mobility managers GM1 and GM2 being equipped with a database BD1 and BD2 and controlling interface devices connected to one another by networks NW1 and NW2. ...

Therefore, the Examiner is using entirely different and unrelated subject matter that has no relevant teachings to reject Applicants' claims. As an example, Applicants demonstrated how Khouaja's teachings are not relevant to Applicants' claims by showing that, following Khouaja's teachings (e.g., connecting to the new access point in the manner taught by Khouaja's paragraph 93), it is possible to violate frequency and power constraints imposed by their respective regulatory domains when moving between Khouaja's mobility domains, which are violations sought to be avoided in the methods recited in Claims 1, 8, 17 and 22. Similarly, Applicants also illustrates Khouaja's irrelevance by showing that, following Khouaja's teachings (e.g., relying on a mobility manager to supply a list of neighboring access points, as taught in Khouaja's paragraph 91), one would not perform the

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active scanning recited in Applicants' Claim 14.

In response, in the Advisory Action of April 6, 2006, the Examiner did not contest the irrelevance of Khouaja, but maintained his rejection because Applicants' claims do not recite the example that illustrates Khouaja's irrelevance:

> The Applicant appears to suggest a "domain-independent channel" there is not danger of violating regulations in transmitting a probe request frame and a regulatory domain, which independently determines the frequency band and the maximum transmission power allowed for wireless communication systems. However, the applicant did not claim it.

Applicants respectfully submit that the Examiner is in error. Applicants' Claims distinguish over Khouaja, at a minimum, by reciting "regulatory domain" and "domain-independent channel." A requirement that an example that merely illustrates this distinction be recited in the claims is simply unreasonable and not warranted under patent law.

Accordingly, Applicants respectfully request that Pre-Appeal Review Panel reverses the Examiner's rejection. If the Panel or the Examiner has any question regarding the above, please telephone the undersigned Attorney for Applicant at (408)-392-9250.

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Reg No 43,779

I Mahboubian 4/28/2006

Attorney for Applicant(s) Date of Signature

Respectfully submitted,

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